

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

GILBERTO PEREIRA BRITO, FLORENTIN
AVILA LUCAS, and JACKY CELICOURT,
individually and on behalf of all those similarly
situated,

Plaintiff-Petitioners,

v.

WILLIAM BARR, et al.,

Defendant-Respondents.

Case No. 19-11314-PBS

Date: _____, 2019

PROPOSED ORDER

The following Order is entered with respect to the Pre-Hearing Class and the Post-Hearing Class (collectively, the “class members”) certified by this Court’s Memorandum and Order dated August 6, 2019 (D.E. 58).

The Court hereby DECLARES as to the class members that:

1. Individuals detained pursuant to 8 U.S.C. § 1226(a) are entitled to a bond hearing in which the government bears the burden to justify continued detention by proving by clear and convincing evidence that the detainee is a danger to others or a flight risk, and even if he or she is, that no condition or combination of conditions will reasonably assure the detainee’s future appearance and the safety of the community, and which includes consideration of the detainee’s ability to pay in selecting the amount of any bond and suitability for release on alternative conditions of supervision.

The Court further ORDERS that the Defendants are hereby ENJOINED as follows:

2. After the date of this order, any bond hearing held for any class member for any reasons shall meet or exceed the procedural requirements set forth in Paragraph 1, above.
3. Each member of the Post-Hearing class shall be provided with a new bond hearing if he or she was prejudiced by the failure of any prior bond hearing to meet the procedural requirements set forth in Paragraph 1, above. Prejudice exists if the error(s) could have affected the outcome of the bond hearing.
4. Within 30 days after the date of this order, Defendants shall serve on class counsel, and shall file under seal with the Court, a document containing the following information for each member of the Post-Hearing Class: (i) the name and A-number; (ii) the current location; (iii) the date the current period of detention began, (iv) the name of the person's counsel in immigration court, if any, (v) a statement of whether the government intends to dispute prejudice as to that person, and if so, an brief explanation of the good faith basis for such dispute, and (vi) a statement of whether a new bond hearing has taken place after the date of this order and, if so, the outcome. A copy of this statement with names and A-numbers redacted should also be filed for the public record.
5. For any member of the Post-Hearing class as to whom the government contests prejudice, the government shall provide class counsel and the class member a copy of the record from the bond hearing within 45 days after the date of this order.
6. To protect the privacy interests of class members, within 14 days after the date of this order, the parties shall prepare and submit, jointly if possible but separately if

necessary, a stipulated protective order governing the exchange of information as set forth in this order.

7. Defendants shall give notice of this order to all current and future class members.

Within 14 days after this order, the parties shall submit a proposed form of notice, jointly if possible but separately if necessary, for the Court's consideration.

8. Six months after the date of this order, and every six months thereafter for a total period of two years, Defendants shall serve on class counsel and file under seal a status report with the following compliance data about all members of the Pre-Hearing Class arrested after the date of this order: detainee name, detention facility, alien number, nationality, book-in date, bond hearing date, bond hearing outcome (including bond amount or release conditions, if any set), whether the person was released and, if so, the book-out date. A copy of this statement with names and A-numbers redacted should also be filed for the public record.

SO ORDERED.

Hon. Patti B. Saris
CHIEF UNITED STATES DISTRICT JUDGE
United States District Court for the
District of Massachusetts

Date: _____